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November 16, 2023
VIA ECF

Hon. Wendy Beetlestone
United States District Judge
10610 U.S. Courthouse
Philadelphia, PA 19106

Re: United States v. Omar W. Oliver
No. 2:22-CR-13

Defendant's Renewed Request for Recommendation for Designation

Dear Judge Beetlestone:

At the conclusion of yesterday's sentencing, my co-counsel, Anna Durbin, requested that the Court make a recommendation to the Bureau of Prisons for a place of incarceration for service of Mr. Oliver's six months in custody. The Court responded, as we understood it, that a provision of the First Step Act had removed the Court's authority to make such a recommendation. As this seemed different from our recollection, we looked into the matter upon our return from court. Since it appears that the Court clearly retains that authority, we now renew our request, specifically asking that the Court recommend to the Bureau that it designate, if possible, FCI Miami for service of Mr. Oliver's term of imprisonment. We fully realize that such recommendations are not binding, but we also understand that the Bureau will attempt to comply if possible, that is, if the recommendation proves consistent with its own security scoring system and with space availability.

Section 3621(b) of title 18, U.S. Code, as amended by § 601 of the First Step Act, affirms the pre-existing assignment to the Bureau of Prisons of the authority to designate the place of imprisonment, subject to a number of considerations. The FSA did add a provision stating that "Notwithstanding any other provision of law, a designation of a place of imprisonment under this subsection is not reviewable by any court." But one of the mandatory considerations for the Bureau in making its designation, even in the amended statute, is listed as "recommendations of the sentencing court." This judicial authority is reiterated and elaborated further into subsection (b) where the statute enumerates mandatory considerations for the Bureau in selecting a place for service of the sentence, including: "(4) any statement by the court that imposed the sentence – ... (B) recommending a type of penal or correctional facility as appropriate" It thus seems clear that the removal of any authority to "review" a

designation decision does not undermine the Court's authority to make a suitable "recommendation." The Administrative Office, on AO Form 245B ("Judgment in a Criminal Case"), facilitates the Court's exercise of this authority by providing a space on Sheet 2 ("Imprisonment") that states "The court makes the following recommendations to the Bureau of Prisons:".

As the Court is aware, Mr. Oliver and his family live in Davie, a town in Broward County, Florida. The Federal Correctional Institution, Miami, is located in Southwest Miami, about 45 miles away, less than an hour south of Davie by car. FCI Miami houses both minimum security and low security male inmates. (This institution is entirely separate from and not to be confused with *FDC* Miami, a maximum-security federal detention facility in downtown Miami.) It thus seems reasonable to hope that the Bureau would find the FCI suitable for designation in this case. Any such designation would greatly assist Mr. Oliver in maintaining and fostering the strong family ties as a husband and as the father of young children that the Court rightly acknowledged and complimented at sentencing.

For these reasons, we ask that the Court reconsider its decision from the bench yesterday and enter a recommendation on Sheet 2 of the judgment for designation of FCI Miami as the place for service of Mr. Oliver's six-month term of imprisonment. Referencing in the written recommendation the Court's rationale for the recommendation (fostering of the defendant's positive relationship with his wife and young children) may encourage the Bureau to adopt it.

Respectfully,

A handwritten signature in black ink, appearing to read "Peter Goldberger", written over the printed names.

PETER GOLDBERGER

ANNA M. DURBIN

Attorneys for the Defendant

cc: Mary E. Crawley, AUSA
Carolyn DeMayo, USPO